

APPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	March 4, 2003
Time of Meeting:	6:30 p.m. (Closed Session)
	7:30 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:35 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmembers Gomez and Polanski. Councilmember Livengood was absent.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following item listed on the agenda and the one item listed on the supplemental agenda:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-05-021, 86-05-009, and 86-11-013

Negotiating Party: Tom Wilson

Under Negotiation: Terms & Conditions for Acquisition/Lease of Property

2. CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Agency Negotiator: Eddie Kreisberg & Cherie Rosenquist

Employee Organizations: MPOA, MEA, Unrepresented

Mayor Esteves adjourned the meeting to closed session at 6:36 p.m.

The City Council meeting reconvened at 7:35 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez and Polanski present.

CLOSED SESSION ANNOUNCEMENTS

There were no closed session announcements.

PLEDGE

Mayor Esteves led the Council and audience in the Pledge of Allegiance.

MINUTES

MOTION to approve the City Council minutes of February 18, 2003, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Livengood)

SCHEDULE

City Manager Thomas Wilson reported a meeting of the Santa Clara Valley Water District Water Commission was scheduled for Wednesday, March 5, 2003, at 11:30 a.m. Mayor Esteves noted he would be attending that meeting.

Vice Mayor Dixon added the following meetings to the schedule for March: March 5, 7:30 a.m., County Expressway Meeting; 3:00 p.m. VTA Financial Ad Hoc Committee; March 6, 6:00 p.m., VTA Board; March 10, City Attorney Subcommittee; March 12, 9:00 a.m., VTA Financial Ad Hoc Committee; March 13, 7:00 p.m., MUSD Bond Oversight Committee.

MOTION to approve the Schedule of Meetings as amended.

M/S: Gomez, Polanski.

Ayes: 4

Absent: 1 (Livengood)

PRESENTATIONS

There were no presentations.

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Stefan Schmitz, Milpitas, shared his thoughts on why Rainbow Theatre is important and the positive impact it has had on his daughter, Kristin. Mr. Schmitz said Rainbow Theatre became as important to her as athletics are to many other kids and helped her in gaining self-confidence, learning about teamwork and leadership skills, and building friendships. Mr. Schmitz thanked the Council for its support of Rainbow Theatre and said he hoped it would continue.

Kristin Schmitz, Milpitas, said she joined Rainbow Theatre four years ago and talked about the skills she gained through the experience. Ms. Schmitz thanked the Council for supporting this wonderful program and she hoped they would continue their support.

Lonnie Knight, Milpitas, thanked the Council for its support for the last four years of the American Cancer Society's Relay for Life, presented the Council with a poster and a plaque recognizing the Council's support last year, and announced that the Relay for Life for 2003 would be held June 20-21, 2003, at the Milpitas Sports Center.

Ed Connor, Milpitas, asked the Council to join him and his friends and colleagues in boycotting products from nations not supporting our President and to take this into consideration on the new projects – the Senior Center and Library.

Isaac Hughes, Milpitas, asked Councilmember Polanski to hold up her bottle of water to show the public and asked the Mayor who paid for the water. Mr. Hughes said his tax dollars paid for it and last year the City spent over \$11,000 on bottled water. Mr. Hughes also talked about prosecution for water pollution and asked that the public be told the source of the ammonia in the water.

ANNOUNCEMENTS

Councilmember Polanski said she had the opportunity, with Vice Mayor Dixon, the City Manager, and the Assistant City Manager, to attend the retirement lunch for three Public Works employees (Sam, Omar, and Rocky) last week; attended the Milpitas Chamber of Commerce Crab Feed with a number of other people; attended an event Saturday night, along with the Fire Chief, City Manager, Vice Mayor Dixon, and the Mayor, at the Milpitas High School Theatre entitled "Journey Along the Silk Road"; attended the Parks, Recreation, and Cultural Resources Commission meeting last night, noting the Commission will be coming forward with its work plan at the next meeting; and wished Vice Mayor Dixon an early Happy Birthday for tomorrow.

Vice Mayor Dixon reported that two weeks ago she, the City Manager, Assistant City Manager, and the Mayor drove to Sacramento to meet with Milpitas' representatives (Assemblymember John Dutra and Senator Figueroa) to talk about Redevelopment benefits to the community and about the Midtown Plan and both were very supportive; she, Councilmember Polanski and School Board President Marshal Grilli attended a seminar on Ethnicity and Empowerment at the new Office of India in the Town Center; and last Monday she represented the City at the Santa Clara County Library Joint Powers Authority where pollsters were interviewed and will be contacting some residents by phone to ask questions about the library system. Vice Mayor Dixon further reported that last week the Council individually received invitations from the Presidents of the MPOA, MEA, MSA, and ProTech regarding the current financial crisis and as a group they want very much to meet and discuss their suggestions regarding reductions of expenditures and revenue enhancements during this financial crisis; she want to take this opportunity to express her appreciation and say thank-you to these employees; however, she was disappointed nothing had been heard from the Firefighters Local 1699 and she hoped they would be considering this. Vice Mayor Dixon also reported that last Thursday the Chamber of Commerce Board voted unanimously to

support the Council's decision to form an Economic Development Commission and presented an update on the VTA.

Mayor Esteves thanked Cub Scout Den 5 for sponsoring the recent Blue and Gold dinner; congratulated the new officers of the Milpitas Historical Society; thanked the Sunnyhills Neighborhood Association for sponsoring a great morning breakfast on the Vietnamese community and cultural food, noted that next month the breakfast will feature the Sikh Community, and invited the community to come and share in these community breakfasts; and reported that he had received a flyer from the IRS about the use of the Earned Income Credit and the Child Tax Credit, many people who qualify for these credits may not be aware, and he would be asking staff to provide the information on Channel 15.

AGENDA

MOTION to approve the agenda as submitted.

M/S: Dixon, Gomez.

Ayes: 4

Absent: 1 (Livengood)

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. There were no requests.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as submitted in accordance with the staff recommendations.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Livengood)

***3. Coyote Creek Trail, Reach 1 (Project No. 4206)**

Approved the submittal of a grant application to the Santa Clara County Transportation Authority TFCA grant program for \$95,000 for the Coyote Creek Trail, Reach 1 (Project No. 4206).

***4. Relay for Life Event**

Approved the Sports Center fee waiver request for the American Cancer Society's Relay for Life Event.

***6. Montague Widening (Project No. 4180)**

1. Adopted Resolution No. 7284 granting initial acceptance of Montague Widening improvements (Project No. 4180), except for the delayed items, and reducing the faithful performance bond to \$608,695.
2. Approved Delayed Item Agreement and authorized the City Manager to execute the same, subject to approval as to form by the City Attorney.

***7. 1999 Slurry Seal (Project No. 4037H)**

Adopted Resolution No. 7285 granting final acceptance and releasing the bond for the 1999 Slurry Seal (Project NO. 4037H).

***8. 1999 Street Resurfacing (Project No. 4182)**

Adopted Resolution No. 7286 granting final acceptance and releasing the bond for the 1999 Street Resurfacing (Project No. 4182).

***9. H.T. Harvey & Associates (Project No. 4029)**

Approved the agreement for site mitigation and monitoring services for a fee not-to-exceed \$8,770.00 for Calaveras Road slope repair (Project No. 4029) with H.T. Harvey & Associates and authorized the City Manager to execute the agreement, subject to approval by the City Attorney as to form.

***10. HVAC Maintenance**

Approved the contract assignment and amendment to Modern Air Systems, Inc., and authorized the City Manager to execute it, subject to approval as to form by the City Attorney.

***11. Respirator Adaptors**

Awarded bid for the purchase of the SCBA adaptors and canisters to the lowest bidder, L N Curtis & Sons in the amount of \$10,435.30.

***12.**

Awarded bid for the Federal ammunition to San Diego Police Equipment Co. in the amount of

Purchase of Ammunition \$22,806.11 and for the Winchester ammunition to Adamson Industries in the amount of \$19,236.03.

***13.** Approved the following purchase request:

Miscellaneous Vendors

\$20,062.28 to Decision Systems for the purchase of hardware and software upgrades to increase line capacity from 4 to 12, annual maintenance and monthly updates to the Teleminder automated messaging and notification system for the EOC. This is a sole source purchase. Decision Systems of Los Altos is the manufacturer of the system and does not have any local distributors because of their proximity. (Funds are available from the Fire Department budget for this purchase.)

***14.** Approved the Payroll Register for the period ending February 8, 2003, in the amount of \$1,575,984.47.

PUBLIC HEARINGS (NONE)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:57 p.m.

CALL TO ORDER

RA2. Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez and Polanski. Councilmember Livengood was absent.

ROLL CALL

RA3. MOTION to approve the Redevelopment Agency minutes of February 18, 2003, including joint meeting with the City Council, as submitted.

MINUTES

M/S: Dixon, Polanski. Ayes: 4 Absent: 1 (Livengood)

RA4. MOTION to approve the agenda as submitted.

AGENDA

M/S: Dixon, Polanski. Ayes: 4 Absent: 1 (Livengood)

RA5. Redevelopment Projects Manager Greg Armendariz reported there were two items before the Council/Agency; the first was a staff recommendation to approve seven contract change orders and the second was a proposal to complete the fourth floor for occupancy. Mr. Armendariz first reviewed the seven contract change orders totaling \$46,736; the largest item was to upgrade the garage ventilation controls system and motor drive (\$35,500) and would provide energy savings of approximately \$25,000 per year; and \$11,000 was also included for the third floor lobby workstation furniture. Mr. Armendariz reviewed the budget and expenses reporting that following tonight's actions, the project contingency remaining would be \$265,123.

CIVIC CENTER UPDATE

Using a PowerPoint presentation, Mr. Armendariz reviewed a staff proposal to complete the tenant improvements on the fourth floor at City Hall using Redevelopment Agency Funds; once the project is closed, Redevelopment Funds would no longer be available and General Fund monies would have to be used. Mr. Armendariz presented three alternatives with costs estimates for the Council's consideration noting that workspaces would be similar to the other floors. Mr. Armendariz described the three alternatives reporting that two of the alternatives would provide a reception area, work stations, private offices, and a conference room to accommodate one entire department and the third alternative would provide offices to move the administrative wing (City Council, City Manager, City Attorney, City Clerk) from the third floor to the fourth floor and would include a large conference room the same size as the Committee Room. Mr. Armendariz estimated the cost for the first two alternatives at \$580,000 and the third alternative at \$780,000. Mr. Armendariz reported the Council could direct staff to go no further with any alternative or could direct staff to pursue it further by

developing the concepts to the next level, refining the cost estimates, and bringing it back to the Council for further review and consideration.

City Manager Tom Wilson commented that with regard to the funding source, as Mr. Armendariz indicated, this building was funded from Redevelopment Agency monies and will be the last City Hall in the State that will be funded using Redevelopment funds because the State changed the law that defines what you can do with Redevelopment monies. Mr. Wilson further commented that the reason this was coming forth was because after the building project is closed, any other additions, modifications, or retrofit would have to come from other revenue sources and not Redevelopment which meant it would come from general fund revenues.

Mayor Esteves said he wanted to make it clear that the fourth floor was never a part of the current City Hall budget; because of the funding source, the Council may want to take advantage of Redevelopment monies now otherwise if the City Hall project is closed, Redevelopment funds would no longer be available; and asked for comments from the Council.

Councilmember Gomez asked if there would be enough funding to complete the Library and Senior Center projects if the Council approved this. City Manager Wilson responded absolutely yes and staff had initiated planning and financing programs that would insure construction of both the interim Senior Center and the Senior Center, as it is determined by the Council to be remodeled and expanded, and the Library. Councilmember Gomez inquired what the operating costs (in terms of lighting, heating, staffing the reception area) of completing the fourth floor would be. Mr. Armendariz responded that would be a cost staff could bring back, but he thought it would probably just be lighting costs and not that much for heating because of the nature of the heating/ventilating system. Councilmember Gomez expressed concern that operating costs take General Fund dollars and is the same fund we are talking about laying off people. Vice Mayor Dixon said she was not talking about laying off people. City Manager Wilson said the operating costs have to come from the General Fund and that fund is under stress in all cities right now; staff would get those numbers on the increases; and there would be no additional costs for staff.

Councilmember Gomez said that was something he would like to see before he could support any improvements on the fourth floor. Councilmember Gomez further stated even looking at option 3 surprised him a little because the present offices have only been occupied for a few months. City Manager Wilson commented that staff felt the need to consider all ideas that had been expressed; one Councilmember had commented, after moving in, on the size and the location of the Council offices; and staff would agree the completion of the third option was never intended but was an option the Council should consider.

Councilmember Polanski thanked staff for bringing all three options because it was important that the Council look at all of them, a fourth option was to do nothing, and she thought if the fourth floor was going to be completed, it would be for future expansion which could be four, five, or six years away. Councilmember Polanski said she would like to have the core build-out complete so when the economy once again turns around, we would be able to expand. City Manager Wilson clarified that the proposal doesn't have an occupancy number, staff didn't have a plan and didn't have a need for that space except for the conference room.

Councilmember Polanski said she thought this was definitely something the Council needed to look at, she was pleased the Council added the fourth floor for future expansion, however, it was done when times were good but now things were tighter and there were more budget concerns. Councilmember Polanski further stated that the Council could do nothing and when the City needs the space, it would cost five or six times the amount of money and would come out of the services provided to the citizens and she didn't want to encumber future Councils from the General fund. Looking at the three options for the amount of space and the expansion that could take place in the future, she preferred option 2 for further discussion; she

liked having the conference room right at the elevator and noted that after being in this building a few months, the conference rooms are small.

Mayor Esteves said he didn't think there was a need to wait four, five, or six years to use the conference room and when the Library is being built, the fourth floor could be used by the construction staff; it would be a very useful potential resource for the City; the good part was the use of Redevelopment monies at this point in time because either we use it or we lose it.

Vice Mayor Dixon said she had collected a lot of information over the years and reflected back on the City's space needs assessment in August 1991 of the old City Hall; it was brought up tonight whether this is a financial benefit to the community; in reading the 1991 information, the Council, at that time, had an opportunity to invest \$5.1 million to retrofit the old building and paid almost a half million dollars in consulting fees; what happened because of this, we have to be very careful as a Council not just to deal with what we have before us at any given time but also be cognizant of what any future Council is going to have to bear; in this case when this Council in 1991-92 decided to defer this, that put a burden on us and the Council unanimously a few years back decided it had a page holder dollar amount out of Redevelopment funds and, as stated by the City Manager, Milpitas was the last city to get in under the wire to build this building using Redevelopment monies which was an incredible savings. Vice Mayor Dixon said when looking at the cost of Redevelopment Agency funds versus General Funds, she worried about putting a future burden on a future Council and it will come out of the General Fund; we may see a leveling off of the financial situation but it may take five years; she had no problem looking to the Redevelopment Agency to go ahead and finish out the fourth floor; as far as operating costs, the construction management team has been up there, to finish out the fourth floor, it doesn't need to be occupied unless this Council wants to let the construction management team occupy it; the Library has been a concern to all of the Council for years; the Senior Center has always been a major concern for all of the Council; the reason the third alternative was brought up tonight was because she, as a member of the Subcommittee, requested that all alternatives be presented to the Council. Vice Mayor Dixon said when she heard in the beginning that Councilmember Gomez and Councilmember Livengood were somewhat shocked over the size of the offices, she thought they should be given the (third) option. Vice Mayor Dixon said her personal preference would be to look at alternative 2 with some more tweaking and modifications; what was needed in this building was a larger conference room/meeting place for the public.

Councilmember Gomez said he was willing to consider this, he didn't think knowing the operating cost was a huge request, he couldn't get a solid number as to what those would be and wanted to make sure it wasn't significant, and he had a serious concern about putting a burden on the fund that is used to pay salaries.

Mayor Esteves commented that if operating costs were a concern, the fourth floor didn't need to be occupied; it could be improved now and the good part was that we would have the space with the option of using it or not and the ability to use Redevelopment monies available at this time only; he also thought making the conference room available for the public's use would justify the operating cost.

Vice Mayor Dixon said nothing was being proposed that would require any operating expense that wasn't operating right now, it was not being proposed that any of the departments go up there, no new employees would be hired, and what was being looked at was finishing off this floor because it was financially prudent to do.

Councilmember Polanski said there were employees up there now working every day and late at night sometimes, there were other projects coming along, and this would provide an opportunity to use monies we have now to finish it off. Councilmember Polanski further stated that the Mayor made a good point that when work begins on the new Library, this might provide some opportunity to house some of the administration there instead of renting space; otherwise she didn't see using the space any different than now. Councilmember Polanski said she agreed with the need for a larger conference room that could be utilized by the public.

as well as staff, she didn't object to having staff come back with operating cost information, and she was in support of using Redevelopment Agency funds now and not encumbering future Councils.

Councilmember Gomez inquired if there would be any additional operating costs if nobody is up there. Mr. Armendariz responded yes, there would be HVAC costs even if no one is up there. Councilmember Gomez asked for confirmation that there would be an additional cost with the fourth floor improvements but staff didn't know what that was. City Manager Wilson clarified that there were already heating and cooling costs and Councilmember Gomez was accurate in his request and staff needed to analyze any incremental increase in the operating cost, bring it back to the Council, and the Council can give direction. City Manager Wilson said staff would do one analysis based only on using the facility for the conference room and another analysis based on the staff existing there today. Mayor Esteves asked if it is occupied right now, didn't staff have some idea of the incremental cost and expressed concern for having to wait two weeks.

Mr. Armendariz said if he were to guess, it would be a very low number. Principal Engineer Mark Rogge added that the HVAC was an integral system that works between the third and fourth floors; the lighting cost was on the order of \$50 per month; beyond that if it was occupied, there would be some janitorial costs; there might also be some power costs associated with computers but as long as employees were not moved up there from other floors, he estimated the operating costs would be no more than \$100 per month not including labor and janitorial.

Mayor Esteves said he thought the Council should be decisive, he didn't want to delay this, he thought the Council should proceed, the operating costs should be considered but he didn't think it would be a significant factor.

Councilmember Gomez said he was willing to consider this but he wanted a number, not from off the top of somebody's head; he didn't think the price would double or triple if the Council waited two weeks for this to come back.

Vice Mayor Dixon commented that a lot of planning went into making this a green building; the third and fourth floors are connected by an open area; it is perfectly air balanced, so she was not that concerned and thought the operating cost would be very minimal. Vice Mayor Dixon suggested coming back at the next meeting, stating again that the Subcommittee never intended for the Council to select one of the alternatives tonight; they wanted to get a dialogue going on the funding mechanism using either Redevelopment monies or waiting and using General Fund monies.

MOTION to approve the seven contract change orders included in the contract change order summary sheet.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Livengood)

MOTION to direct staff to return at the March 18, 2003, Council meeting with more defined operating cost estimates for occupying the 4th floor with (1) costs for the construction management team up there now (current costs), and (2) with an empty floor, and both options including a full-functioning conference room and also return with the issue of using Redevelopment Funds versus General Fund monies.

M/S: Dixon, Polanski.

Mayor Esteves said he wanted to include in the motion an estimate of the current operating costs with the fourth floor undeveloped. The maker and second to the motion agreed.

Councilmember Gomez said this was something he would consider, this was the right fund we should be paying this out of, he did have some concern with the operating costs, and said he

thought we should be completing our capital projects given the current economy because it will help stimulate the economy and create jobs and was something we should be encouraging other local jurisdictions to do to help the economy.

VOTE ON MOTION

Ayes: 4

Absent: 1 (Livengood)

Mayor Esteves said he wanted to reiterate the Council's major priorities are the Library and the Senior Center.

**RA6.
BUDGET COST SAVINGS**

City Manager Wilson said he had some good news to report and would also be discussing Budget circumstances staff was working with in relation to the future for Fiscal Year 2003-2004. Mr. Wilson reviewed expenditure and revenue projections previously reported to the Council on February 4, 2003, and reviewed revised expenditure and reserve projections based on anticipated additional cost savings. Mr. Wilson reported \$4 million in cost savings was projected for Fiscal Year 2002-03, which would result in a remaining unreserved undesignated fund balance of \$11.80 million. Mr. Wilson said even better news was that these figures assumed the State would take over \$950,000 this year in vehicle license fees; if not, then the General Fund reserves would increase to almost \$13 million. Mr. Wilson expressed his appreciation to the staff noting that every part of the organization contributed to the cost savings effort and many employees contributed ideas on ways to save money. Mr. Wilson said there were also program monies that were not taken because that would be a Council policy decision; however, two cost savings proposals through program reductions were listed on the agenda: \$18,500 from the Spay/Neuter program and \$33,100 in recreation program reductions. Mr. Wilson commented that the amount of savings for the rest of the year from the recreation program reductions was not needed at this time but though the spay/neuter program could get along without the \$18,500.

Mayor Esteves said he didn't see anything included about the negative impact of the spay/neuter program. Mr. Wilson responded the City subsidizes the spay/neuter program in the community at approximately \$40,000 this year. Principal Housing Planner Felix Reliford explained that the amount of subsidy varies depending on the level of surgery but generally the resident pays \$5 and the City pays as much as \$100. Mayor Esteves asked what the impact would be in terms of animal population and was the budget spent in the previous year. Mr. Wilson said the impact had not been quantified and the budget was spent in the previous year. Mayor Esteves said he was also looking for the impact of the recreation reductions. Mr. Wilson said the proposed reductions were ones the Recreation staff felt would have the least impact; however, for \$33,100, it might be something we continue through this year and look at the savings for next year if they are needed.

Vice Mayor Dixon said she thought the budget looked okay for this fiscal year cycle; she would be looking for level of service within the entire community in the next budget cycle. Vice Mayor Dixon further stated that she would be looking for things such as a higher cost recovery for the spay/neuter program; it was her understanding that not many teens were at the Teen Center on Sundays; and cautioned about being careful when getting into the area of anything to do with athletics. Vice Mayor Dixon commented that she had noticed an increase in the amounts being awarded per grant from the Youth Sports Grant Program and would prefer to keep them between \$250-\$500 per child and cost recovery should be kept in mind when implementing a new fee.

Councilmember Polanski inquired if there was any income level used as a basis for the Spay/Neuter Program. City Manager Wilson responded anyone can apply. Councilmember Polanski commented that while this seemed like it might be a great benefit, it was something that should be looked at along with more cost recovery. Councilmember Polanski said she thought the use of services did need to be looked at and was pleased that employees in all departments came together with suggestions; she thought it looked good now but we are definitely not out of the hole and the economy doesn't look good throughout the State.

Councilmember Gomez said he agreed with Vice Mayor Dixon that we are not at the point of needing to talk about cutting services and requested that more information be provided when you mention things like reducing hours at the Teen Center (how many people are using it; how few people are using it). City Manager Wilson responded these ideas, from the departments reflecting possible savings for this year, were brought forward since February 4th, there was more information that would help but there also was a point, however, of diminishing return; staff was working to provide better information to give the Council a recommendation on priorities so the Council may make a thoughtful decision. Mr. Wilson said he was hearing that the Council was interested in staying the course for the rest of this year and staff would bring the information back in a revised fashion for consideration with next year's budget. Mayor Esteves suggested since the amounts were small, let the residents have time to enjoy them and get feedback on the impacts; they were small amounts and you don't want to spend a lot of time analyzing them but he would want to know the impacts.

Vice Mayor Dixon commented that she knew cuts were being made right now, in particular the elimination of the annual Child Care Givers Tea; she wanted to continue (looking at cuts) because she didn't want to put off any longer than needed when areas were identified that could help right now and in the next budget cycle; with respect to the Youth Sports Grant, she would like staff to reassess the amounts to make sure the allocations were within reason; with respect to the Spay/Neuter Program, she was sure if staff talked to the County Health/Humane Society, they would say there was a local impact to neighborhoods but overall she agreed this was something she wanted to continue looking into for the next budget cycle. City Manager Wilson said these were definable ones that were worked up enough for Council consideration in the last month; staff would have those come forward to the Council to allow the Council to make judgments before committing to the next budget cycle; and this was truly a work in progress and this was just a piece.

Councilmember Gomez said the City Manager mentioned cuts across the board and asked what direction did the City Manager give to the departments. City Manager Wilson responded staff had been through an incredible process since the first of the fiscal year and explained how programs and associated costs were identified and prioritized.

Isaac Hughes commented on the City Manager's compensation and said he thought it was funny when he looked at these well educated people who spend 25% of their time patting each other on the back. Mr. Hughes said he needed to hear some numbers; when Mr. Wilson says he's proud, that is his job; wanted to know how much was spent last year that didn't need to be spent; wanted to know that he was going to hear his public servants say that they are not going to cut public services; and he has had a street light out in front of his house for three months, said he had called the City constantly and they still haven't responded.

Mayor Esteves said he appreciated and commended Mr. Wilson for his leadership and staff for working beyond the call of duty, this is a critical time, and expressed his appreciation to the different bargaining units for coming forward and working with the Council.

City Manager Wilson said that because of the hour, he would shorten the presentation he was going to make on distinguishing General Fund monies from Redevelopment Agency funds as the Council would have an opportunity to discuss this later. Mr. Wilson briefly commented on the typical revenue sources for cities, Milpitas' primary revenue sources, and property taxes explaining that 18 cents out of every dollar goes to cities; Redevelopment changes that dramatically with no increase in taxes but 75 cents on that dollar, of which 15 cents must be set aside and spent for affordable housing, leaving 60 cents for improving the area. Mr. Wilson said the advantage of Redevelopment is that it allows the generator (the cities) of the property tax to keep more of it and use it for the benefit of their cities and that was why certain Plan Amendments needed to continue.

MOTION to note receipt and file.

M/S: Dixon, Polanski.

Ayes: 4

Absent: 1 (Livengood)

**RA7.
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 9:44 p.m.

The City Council meeting continued

RECESS

Mayor Esteves recessed the City Council meeting at 9:44 p.m. The City Council meeting reconvened at 9:51 p.m.

REPORTS OF OFFICERS & BOARDS

**1.
SCVWD Grant Fund**

Councilmember Gomez placed this item on the agenda and reported that the Santa Clara Valley Water District passed a Bond Measure in 2000 that included \$14 million to be used for trails; recently the Water District developed some criteria for trail funding to rank which trails will be first to be funded; a problem for Milpitas was that the Water District hasn't spelled out whether projects currently under construction can be considered for funding; Milpitas has two trail systems, the Coyote and Berryessa Creek Trails, which have to start now because there are grants that require them to be completed by a certain date in order to receive funding. Councilmember Gomez said he didn't want to lose out on an opportunity for grant funds and was requesting the Council authorize the Mayor to send a letter to the Water District asking that they consider projects under construction to be considered to receive grant funds.

Mayor Esteves commented that staff has been developing plans and specifications for the trails projects and inquired when this started. City Engineer Mike McNeely responded the projects were in the Trails Master Plan, the Council had approved the applications for grants, the Berryessa trail project was currently scheduled to start about the same time the Water District will finalize their grant requirements, and we don't want to be lost in the shuffle. Mr. McNeely said some grants have been approved but there have been mixed messages from the State because of the current budget crisis. Mayor Esteves asked if this would further secure the application for the grant. Mr. McNeely said some funding for the bare minimum trails had been set aside, this would help, and suggested that the Council also direct staff to prepare the grant applications following this letter so that no time would be lost in submitting the grant.

Councilmember Polanski inquired if there were other trails the City was looking at to go to the Water District for a grant in the future. Mr. McNeely said staff felt several of the trails in Milpitas would be considered in the grant application as this would be a several years program.

Mayor Esteves asked Ray Maglalang to make some comments noting that Mr. Maglalang represented Santa Clara County on the Santa Clara Valley Water District Coyote Flood Control and Watershed Advisory Committee. Ray Maglalang said he was in support of these projects and he made a proposal last year at a November meeting for beautification of Berryessa and Calera Creeks because Calera meets Coyote Creek and Coyote Creek went all the way down to Silver Creek; asked how would you like to see a trail from Milpitas all the way down and without having a problem with predators on a walking trail in the mountains; this is a good project; last month he made proposal to create a trail from Coyote Creek connecting Berryessa all the way down to Silver Creek.

Councilmember Gomez said Mr. Maglalang brought up a good point regarding our other trails, many cities are not waiting until they have a paved trail to open up the fences, they are working with the Water District to develop joint use agreement to have interim trails and that was something Milpitas needed to pursue with the Water District - to open up those fences and allow people use them, and he looked forward to receiving information from staff on how we can open up those gates.

MOTION to authorize the Mayor to sent a letter to the Santa Clara Valley Water District and direct staff to pursue grant applications for trail funding.

M/S: Gomez, Polanski.

Ayes: 4

Absent: 1 (Livengood)

2.
National Night Out

Al Garcia, Chair, Community Advisory Commission, introduced three other Commissioners present Ray Maglalang, Phil Cook, and Syed Mohsin, and reported that Commissioner Maglalang had been chairing this sub-committee working on National Night Out for almost a year and has stressed the value of a National Night Out and got the Commission interested in this project.

Ray Maglalang said he had been participating in National Night Out for five years, it started with a small number of homeowners and last year about 100 participated, it creates a lot of neighborhood relationships and brings people together. Mr. Maglalang further stated it creates a lot of hometown security and is a good way of disseminating information from the City to the neighborhoods at the same time.

Mr. Garcia said they had the full support of the Police Department and the Fire Department and they appreciated their support; the purpose of their presentation and request tonight was to take this to all the communities in the City. Mr. Garcia further stated the presentation he was making was the same that would be presented to the neighborhoods and would include an explanation of key aspects, how it would build neighborhood spirit, and they would be asking each Commissioner in the City to hold a National Night Out in their neighborhood during August. Mr. Garcia requested the Council designate August 12, 2003, as National Night Out for Milpitas; nationwide it was scheduled for August 5 but that is a Council meeting night and the CAC would prefer to have the Council involved. Mr. Garcia also asked that the Council request the Police Department prepare a report to the CAC annually on the results of the National Night Out including maps showing how we are doing. Mr. Garcia expressed appreciation to the Council for their support of National Night Out.

Mayor Esteves commented that Mr. Garcia mentioned August 12 as National Night Out and asked if all the events would be happening on that night or throughout the month. Mr. Garcia responded they were requesting it all happen on that one night, would like to try it by having it on a single night and then evaluate it. Mayor Esteves said it could be potentially restrictive in some neighborhoods and suggesting letting the neighborhoods meet to find a good date for each of them so it wouldn't restrict the number of Neighborhood Night Outs. Mr. Garcia said they would recommend it be on one night but if a neighborhood wants its own on a different, night, they could but the CAC would like to experiment this year having it on one night designated by the Council.

Councilmember Polanski expressed her appreciation to the CAC and said she saw the benefit of doing it on one night because the objective was to get the entire community doing it on the same night to get the sense of community. Councilmember Polanski said she was the benefit of just having one City National Night Out and next year it might be made part of the City's 50th Birthday celebration.

Vice Mayor Dixon said she thought the CAC did a great job with this and was supportive of going with one night; there will still be some neighborhoods that will want to have an all-day picnic; was glad to see it moved off a Council meeting night, some groups have managed to make it a little too political and hoped politics would be kept out; she thought the whole program was great and couldn't think of a better time to do it; and it could work with the SAFE Program to get people aware of their surroundings.

Councilmember Gomez said he would be supporting the proposal and thanked Mr. Garcia for his work.

Mayor Esteves said he wanted to hear from the Police and Fire Chiefs and to how they planned to provide support. Police Chief Charles Lawson commented that when Mr.

Maglalang first started National Night Out, police personnel visited as many as five or six on one night. Fire Chief Bill Weisgerber said they would have the engine company from the area where the National Night Out was being held do a stop. Mayor Esteves said he had seen several National Nights Out and they all were great but asked if some rules or basic restrictions should be prepared. Chief Lawson said there had never been restrictions and they have had no problems. Vice Mayor Dixon said she would prefer not to have an all-day affair and suggested that police and fire personnel spend 30 minutes and leave instead of spending all day.

MOTION to designate August 12, 2003, as "National Night Out" in Milpitas and directed staff to prepare guidelines for the event.

M/S: Polanski, Dixon.

Mayor Esteves said he would like an amendment asking that the Police and Fire Departments would provide feedback on the results of the event. Councilmember Polanski said that would be part of the motion.

VOTE ON MOTION

Ayes: 4

Absent: 1 (Livengood)

ORDINANCES

5. Ordinance No. 259 News Racks

Principal Engineer Mark Rogge briefly reviewed the proposed ordinance that would impose certain standards and requirements on vendors seeking to place news racks on public property or within the public right of way. Mr. Rogge said the intent of the ordinance was to provide ample opportunity for the distribution of news, opinion and free speech and at the same time maintain safety and accessibility on pedestrian thoroughfares. Mr. Rogge reported the ordinance would require that the vendor obtain a permit, the racks could only be placed at City-approved locations, and would require modular style news racks that meet specific design standards.

Councilmember Gomez inquired what prompted the ordinance and was there a problem right now. Mr. Rogge responded as the City Hall project was finished, one of the things staff was working on was how to keep the City property neat and maintained; one of the issues staff looked at was as news racks become popular in certain locations, people put them in piece by piece and they become an eyesore and start encroaching upon the sidewalks and can become a safety matter. Mr. Rogge showed pictures of two locations on private property in the City where this happened. Councilmember Gomez expressed concern about having an ordinance regulating on private property and was worried there could be an occurrence at City Hall like at the Library with an abundance of free materials and asked how this would be handled at City Hall. Mr. Rogge responded this ordinance would handle it and it could be handled through a Standard Operating Procedure put together by staff. City Attorney Steve Mattas noted there was a Standard Operating Procedure that exists for the interior of City Hall, which effectively would be an implementation of this ordinance, this ordinance would apply to both inside and outside public facilities and the purposes is to provide for a content neutral process that would allow for consideration of safety factors in the placement of these racks; once you identify a place, either inside or outside, then as long as the materials are not obscene, they would be permissible.

Councilmember Gomez said a concern he had with the ordinance was the appeals process, and he was a little uncomfortable with the administration being the final decision-maker; he thought it should be the Planning Commission, other commission, or the Council and felt it should be changed. Councilmember Gomez further stated that the ordinance specifies if a news rack doesn't have materials in it for 10 days, it is considered abandoned and he was concerned for staff time, didn't want staff to be in the middle of a war between two publications, and would be more comfortable if the 10 days was 15 or some cities have up to 30 days. Councilmember Gomez said he also didn't see any requirement that some form of identification be on the news rack itself. Mr. Rogge responded he believed there was a requirement for signage on the rack. City Manager Wilson commented that if the Council

wanted to extend the time from 10 days, it would not be a burden on staff. City Attorney Mattas clarified that it was 10 business days. Councilmember Gomez said he was comfortable with that and commented that if you have a prime location, then only a limited number could be placed there. Mr. Rogge explained that after a location was filed up, additional modular could be added so you would not have to limit the number; the idea would be to maintain the modulares but more modulares could be added.

City Attorney Mattas read the title of Ordinance No. 259, an ordinance of the City of Milpitas adding Chapter 11 to Title X of the Milpitas Municipal Code entitled "Regulation of News Racks."

MOTION to waive the reading beyond the title.

M/S: Polanski, Dixon.

Councilmember Gomez inquired if the motion included any amendment to the appeal process. City Attorney Mattas responded the motion did not include that. Councilmember Polanski said she didn't have a problem with it. Mr. Mattas said the ordinance as structured provided the determination would be appealed to the City Manager, and then would actually be subject to a judicial challenge; if the Council wanted to have it come before the Council, it could but that was not the way it was structured. Councilmember Polanski inquired if there was any benefit. Mr. Mattas said this was an ordinance that established the parameters under which determinations would be made, the Council was giving very specific direction to staff, if the Council felt that some discretionary body, the Planning Commission or the Council wanted to be the final City decision-maker, it could hold that to the Council; but he didn't see the necessity to do that,

Vice Mayor Dixon said the second to the motion had no problem with how this was portrayed. Councilmember Polanski, the maker of the motion, said she had no objection.

VOTE ON MOTION to waive the reading: Ayes: 4 Absent: 1 (Livengood)

MOTION to introduce Ordinance No. 259.

M/S: Polanski, Dixon.. Ayes: 3 Noes: 1 (Gomez) Absent: 1 (Livengood)

ADJOURNMENT

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 10:35 p.m.

Gail Blalock, CMC
City Clerk

The foregoing minutes were approved by the City Council as submitted on March 18, 2003.

Gail Blalock, City Clerk

Date